

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

RANDALL GENE KESSLER,)	Civil No.: 3:13-cv-00767-JE
)	
Plaintiff,)	FINDINGS AND
)	RECOMMENDATION
v.)	
)	
CAROLYN W. COLVIN,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	
_____)	

Randall Kessler
3567 Table Rock Road
Medford, OR 97504

Plaintiff *Pro Se*

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Attorneys for Defendants

JELDERKS, Magistrate Judge:

Plaintiff Randy Kessler brings this action pursuant to 42 U.S.C. § 405(g) seeking judicial review of a final decision of the Commissioner of Social Security (the Commissioner) denying his applications for Disability Income Benefits (DIB) and Supplemental Security Income (SSI) and under the Social Security Act (the Act). For the reasons set out below, the action should be dismissed for failure to prosecute.

Background

On May 7, 2013, Plaintiff filed this action pro se, seeking an Order reversing the decision of the Commissioner and remanding the action to the Social Security Administration (the Agency) for an award of benefits.

On June 12, 2013, the Court ordered Plaintiff to file an Application to Proceed *In Forma Pauperis* or to pay the filing fee. On June 13, 2013, Plaintiff filed an Application for Leave to Proceed *In Forma Pauperis*. The Court approved Plaintiff's application on June 14, 2013.

Based on email correspondence between Plaintiff and the Clerk's office, Plaintiff's deadline to submit service of summons documents was extended to March 10, 2014.

On February 3, 2014, the Court issued, and the Clerk's office mailed to Plaintiff, a Social Security Procedural Order and Notice of Case Assignment.

Return of Service Executed on the Commissioner was entered into the docket on March 18, 2014. The Commissioner appeared through counsel on April 16, 2014, and filed an Answer on July 3, 2014.

Plaintiff failed to file an Opening Brief by September 5, 2014, as was required by this Court's Order of February 3, 2014.

On January 6, 2015, this Court issued an Order to Show Cause in writing by February 4, 2015, why this case should not be dismissed for lack of prosecution. Plaintiff has not submitted anything in writing or otherwise explained to the Court why he has stopped prosecuting this case. Accordingly, I recommend that this case be dismissed.

Conclusion

For the reasons set forth above, this action should be DISMISSED without prejudice.

Scheduling Order

This Findings and Recommendation will be referred to a district judge. Objections, if any, are due March 20, 2015. If no objections are filed, then the Findings and Recommendation will go under advisement on that date.

If objections are filed, then a response is due within 14 days after being served with a copy of the objections. When the response is due or filed, whichever date is earlier, the Findings and Recommendation will go under advisement.

DATED this 3rd day of March, 2015.

/s/ John Jelderks
John Jelderks
U.S. Magistrate Judge